

ORDINANCE NO. 071 - 2025

AN ORDINANCE CHANGING THE ZONE FROM A PLANNED NEIGHBORHOOD RESIDENTIAL (R-3) ZONE TO A NEIGHBORHOOD BUSINESS (B-1) ZONE, FOR 0.0402 NET (0.0993 GROSS) ACRE FOR PROPERTY LOCATED AT 400 CHESTNUT STREET. (ON THE BLOCK, LLC; COUNCIL DISTRICT 1).

WHEREAS, at a Public Hearing held on July 10, 2025, a petition for a zoning ordinance map amendment for property located at 400 Chestnut Street from a Planned Neighborhood Residential (R-3) zone to a Neighborhood Business (B-1) zone, for 0.0402 net (0.0993 gross) acre, was presented to the Urban County Planning Commission; said Commission recommending approval of the zone change by a vote of 9-0; and

WHEREAS, the Urban County Council agrees with the recommendation of the Planning Commission; and

WHEREAS, the recommendation form of the Planning Commission is attached hereto and incorporated herein by reference.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That the Zoning Ordinance of the Lexington-Fayette Urban County Government be amended to show a change in zone for property located at 400 Chestnut Street from a Planned Neighborhood Residential (R-3) zone to a Neighborhood Business (B-1) zone, for 0.0402 net (0.0993 gross) acre, being more fully described in Exhibit “A” which is attached hereto and incorporated herein by reference.

Section 2 – That the Lexington-Fayette Urban County Planning Commission is directed to show the amendment on the official zone map atlas and to make reference to the number of this Ordinance.


Section 3 – That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: September 11, 2025



MAYOR

ATTEST:



CLERK OF URBAN COUNTY COUNCIL
PUBLISHED: September 19, 2025-1t
0790-25:TWJ:4927-4554-9409, v. 1

Rec'd by _____

Date: _____

RECOMMENDATION OF THE
URBAN COUNTY PLANNING COMMISSION
OF LEXINGTON AND FAYETTE COUNTY, KENTUCKY

IN RE: **PLN-MAR-25-00009: ON THE BLOCK, LLC** – a petition for a zone map amendment from a Planned Neighborhood Residential (R-3) zone to a Neighborhood Business (B-1) zone to for 0.0402 net (0.0993 gross) acres for the property located at 400 Chestnut Street. (Council District 1)

Having considered the above matter on **July 10, 2025**, at a Public Hearing, and having voted **9-0** that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend **APPROVAL** of this matter for the following reasons:

1. The requested Neighborhood Business (B-1) zone is in agreement with the 2045 Comprehensive Plan's Goals and Objectives, for the following reasons:
 - a. The proposed project is in a location that promotes infill, redevelopment, adaptive reuse, and mixed-use developments (Theme A, Goal #2.a).
 - b. The proposed rezoning will allow for a commercial development with the potential for a neighborhood-serving business (Theme A, Goal 3.d).
 - c. The proposed project will remain in scale with the surrounding context through the reuse of an existing, non-conforming structure (Theme A, Goal #2.b) while prioritizing multi-modal facilities promoting safer connectivity (Theme A, Goal #3.b).
2. The requested Neighborhood Business (B-1) zone is in agreement with the 2045 Comprehensive Plan's Policies, for the following reasons:
 - a. The proposed rezoning will allow the applicant to reuse an existing structure for a commercial use in scale with the surrounding context (Theme A, Design Policy #4).
 - b. The proposal will not have any on-site parking, prioritizing multi-modal connectivity (Theme A, Design Policy #7).
 - c. The proposal intends to prioritize multi-modal connections for the potential commercial user (Theme A, Design Policy #10).
 - d. The proposal seeks to add neighborhood-level commercial opportunities through re-zoning the property (Theme A, Design Policy #12).
3. The justification and corollary development plan are in agreement with the policies and development criteria of the 2045 Comprehensive Plan.
 - a. The proposed rezoning meets the recommendations for Land Use, as the proposed development will re-establish a commercial use within a neighborhood context (A-DS10-1), which will provide a pedestrian-oriented commercial opportunity (A-DN3-1).
 - b. The proposed rezoning addresses the Transportation and Pedestrian Connectivity Development Criteria, as the proposal will provide safe multi-modal facilities (A-DS5-1) that incorporates dedicated connections to neighborhood anchors (C-PS10-1) promoting pedestrian, bike, and transit users to the property (A-DS1-2).
 - c. The request meets the criteria for Environmental Sustainability and Resiliency, as the applicant proposes to use native, low-impact landscaping (B-PR2-1), while not adding any impervious surface to the site (B-SU4-1).
 - d. The request meets the requirements for Site Design, as the proposed development will activate the streetscape by promoting a pedestrian-oriented site (A-DS5-4) with no on-site parking (C-PS10-2) that will enhance the public realm by activating the street corner (C-LI8-1).
 - e. The request meets the criteria for Building Form, as the proposal maintains appropriate scale to the surrounding neighborhood (A-DS4-2) through the reuse of a viable existing structure (E-GR4-1).

while creating a pedestrian-oriented atmosphere (A-DS5-3) through the activation of the street corner (D-PL2-1).

4. This recommendation is made subject to approval and certification of PLN-MJDP-25-00028: ON THE BLOCK, LLC PROPERTY prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

ATTEST: This 15th day of August 2025.


Secretary, Jim Duncan

LARRY FORESTER
CHAIR

KRS 100.211(7) requires that the Council take action on this request by October 8, 2025.

Note: A dimensional variance was approved by the Planning Commission on July 10, 2025.

Note: The corollary development plan, PLN-MJDP-25-00028: ON THE BLOCK, LLC PROPERTY was approved by the Planning Commission on July 10, 2025, and certified on July 24, 2025.

At the Public Hearing before the Urban County Planning Commission, this petitioner was represented by **Lexi Holland, attorney for the applicant.**

OBJECTORS

- Attorney Jessica Winters, attorney representing Samuel Hicks, 409 E. Fourth Street
- Robert Hodge, president of the William Wells Brown Neighborhood Association
- Vivian Hodge, vice-president of the William Wells Brown Neighborhood Association

OBJECTIONS

- Explained why Mr. Hicks was in opposition to the development plan and the variance request and described the ongoing property line dispute.
- Stated that he owned numerous properties in the area, but the applicant had not reached out to discuss plans. He requested extra conditions regarding hours of service, parking, and allowable uses.
- Expressed concerns over some potential uses of the property.

VOTES WERE AS FOLLOWS:

AYES: (9) J. Davis, M. Davis, Z. Davis, Michler, Nicol, Owens, Penn, Wilson, and Worth

NAYS: (0)

ABSENT: (2) Barksdale and Forester

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for **APPROVAL** of **PLN-MAR-25-00009** carried.

Enclosures: Application
Justification
Legal Description
Plat
Development Snapshot
Staff Report
Supplemental Staff Report
Applicable excerpts of minutes of above meeting

MAP AMENDMENT REQUEST (MAR) APPLICATION

1. CONTACT INFORMATION (Name, Address, City/State/Zip & Phone No.)

Applicant:

Andrew Mueller, 1030 Monarch Street, Ste 340, Lexington, KY 40513

Owner(s):

ON THE BLOCK LLC 1030 MONARCH ST STE 340 LEXINGTON KY 40513

Attorney:

2. ADDRESS OF APPLICANT'S PROPERTY

400 CHESTNUT ST LEXINGTON KY 40508

3. ZONING, USE & ACREAGE OF APPLICANT'S PROPERTY

Existing		Requested		Acreage	
Zoning	Use	Zoning	Use	Net	Gross
R-3	R-3	B-1	B-1	0.04	0.04

4. EXISTING CONDITIONS

a. Are there any existing dwelling units on this property that will be removed if this application is approved?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
b. Have any such dwelling units been present on the subject property in the past 12 months?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
c. Are these units currently occupied by households earning under 40% of the median income? If yes, how many units? If yes, please provide a written statement outlining any efforts to be undertaken to assist those residents in obtaining alternative housing.	
	<input type="checkbox"/> YES <input type="checkbox"/> NO

5. URBAN SERVICES STATUS (Indicate whether existing, or how to be provided)

Roads:	LFUCG
Storm Sewers:	LFUCG
Sanity Sewers:	LFUCG
Refuse Collection:	LFUCG
Utilities:	<input checked="" type="checkbox"/> Electric <input checked="" type="checkbox"/> Gas <input checked="" type="checkbox"/> Water <input checked="" type="checkbox"/> Phone <input checked="" type="checkbox"/> Cable



VARIANCE JUSTIFICATION

1. Why will the granting of this variance not negatively affect the public health, safety or welfare, not alter the character of the general vicinity, and not cause a hazard or nuisance to the public?

This requested variance only serves to grandfather an existing condition. The property has been utilized in the past for commercial purposes via conditional use permits.

2. How will granting this variance not allow an unreasonable circumvention of the requirements of the Zoning Ordinance?

The requested variance is only for relief of an existing condition building/property as it was constructed in ~1930. The property has been operating in a commercial capacity via conditional use permits in recent years.

3. What are the special circumstances which apply to this property and which do not generally apply to land in the general vicinity or in the same zone?

The building on this property was constructed in approximately 1930, and as constructed it leaves insufficient space to accommodate the current buffer standards without altering/demolishing the existing structure.

4. How would strict application of the Zoning Ordinance deprive you (the applicant) of a reasonable use of your land, or create an unnecessary hardship upon you?

Strict application of the buffer standard would require demolition of the existing structure.

5. How are the circumstances of this requested variance not the result of your own actions since the adoption of the zoning regulation (from which you now seek relief)?

The owner did not construct the building. The property was purchased with the existing structure already in place. The buffer area required by zoning code was already occupied by the building at the time of purchase.

Andrew Mueller
amueller@thegibsoncompany.com
On behalf of ON THE BLOCK, LLC
April 29, 2025

Lexington-Fayette Urban County Planning Commission
101 East Vine Street
Lexington, KY 40507

RE: Zone Map Amendment Request – 400 Chestnut Street, Lexington, KY 40508
Proposed Zoning: B-1 (Neighborhood Business)

Dear Members of the Planning Commission:

I am writing on behalf of the applicant to formally request a **Zone Map Amendment** for the property located at **400 Chestnut Street, Lexington, KY 40508**. The applicant seeks to rezone the parcel from **R-3 (High-Density Residential)** to **B-1 (Neighborhood Business)** to support a small-scale, walkable, neighborhood-serving commercial use consistent with the area's history, demand, and character.

Historic Use & Neighborhood Compatibility

The subject property at **400 Chestnut Street** was built in **1930** and has always operated as a **commercial building**. Over its lifetime, it has housed multiple businesses, most recently operating as a **licensed hair salon** with a valid **Certificate of Occupancy**. Crucially, the building has **never been used for residential purposes**.

The structure will **remain as originally built**, and **no exterior construction is necessary** to accommodate business operations. This ensures full compatibility with the surrounding residential scale, character, and streetscape.

The property lies near several other active small businesses—many operating under R-3 zoning—including:

- **Family Dollar at 407 & 421 Race Street** (approx. 350 feet away)
- **M&M Grocery at 398 E Fifth Street**
- **Liquor store at 401–403 E Fifth Street**
- **Martine's Pastries at 400 E Third Street**

Rezoning 400 Chestnut to B-1 aligns with the established **mixed-use nature of this corridor** and will formalize commercial use in a building that has been functioning this way for nearly a century.

Community Demand & Transit Access

There is an **expressed community need** for more local commercial options in this area. Numerous neighbors and stakeholders have voiced strong support for additional walkable businesses. The **LexTran bus stop located immediately beside the property** further supports the site's suitability for neighborhood commerce.

The applicant has received **multiple leasing inquiries** from prospective tenants interested in using the building for restaurants, corner stores, clothing shops, and other needed services. These types of low-impact, community-serving businesses align perfectly with the property's layout, size, and location.

Consistency with the B-1 Zoning Ordinance (Sec. 8-16)

The proposed rezoning is fully consistent with the **intent and permitted uses of the B-1 (Neighborhood Business) zone**, as outlined in **Sec. 8-16** of the Lexington-Fayette County Zoning Ordinance. The B-1 zone is specifically intended to "**accommodate neighborhood shopping facilities to serve the needs of the surrounding residential area**," and to "**support and enhance a residential neighborhood**" with small-scale, community-serving businesses.

The subject property is ideally suited for this designation:

- It will house **low-intensity businesses** that do not generate noise, dust, or vibrations perceptible beyond the property line, consistent with the B-1 standards.
- Uses such as **retail stores, restaurants, professional offices, corner stores, or personal service establishments** are explicitly allowed principal uses under **Sec. 8-16(b)** and align precisely with the tenant interest already received for the site.
- The **existing structure will remain unchanged** externally, ensuring the scale, walkability, and neighborhood character intended for the B-1 zone is preserved.

Rezoning 400 Chestnut to B-1 will allow the property to conform with modern zoning requirements while serving the community in accordance with the **specific intent and use standards of the B-1 Neighborhood Business Zone**.

Alignment with the Comprehensive Plan & Place Type

The requested zone change supports the goals and policies set forth in the **Imagine Lexington 2045 Comprehensive Plan**, particularly under the **Placebuilder framework**.

The Place Type most appropriate for this property is "**Enhanced Neighborhood – Low Density Non-Residential/Mixed Use**". This designation better reflects the site's scale, surrounding development pattern, and walkable proximity to neighborhood-serving uses. It

provides a planning framework that supports low-intensity business activities woven into existing residential neighborhoods.

Applicable Placebuilder Objectives:

LAND USE

- **A-DS12-1** – Development should be located nearest to neighborhood-serving commercial areas
- **A-DN3-1** – Pedestrian-oriented commercial opportunities should be incorporated within neighborhoods
- **B-SU3-1** – Encourage compact and mixed-use development
- **C-LI7-1** – Promote walkable access to greenspace, businesses, and services
- **E-GR9-2** – Incorporate low-intensity business uses into neighborhoods

TRANSPORTATION & CONNECTIVITY

- **A-DS1-2** – Accessible pedestrian linkages to transit should be provided
- **A-DS5-1** – Provide safe separation for multiple travel modes
- **A-DS10-1** – Ensure connectivity to community anchors
- **C-PS10-1** – Utilize shared and flexible parking

SITE DESIGN

- **A-DS5-4** – Promote pedestrian-friendly and active streetscapes
- **C-LI8-1** – Enhance public realm with appropriate mixed-use activation

ENVIRONMENTAL SUSTAINABILITY

- **B-SU4-1** – Avoid unnecessary impervious surface expansion
- **B-SU11-1** – Use native, low-impact landscaping

Conclusion

Rezoning 400 Chestnut Street to B-1 is **consistent with its historical commercial use**, aligned with current neighborhood activity, **strongly supported by residents**, and positioned for **low-impact, walkable business development**. The building will remain intact as originally built, with **no exterior alterations** required, and will help meet the pressing demand for community-serving retail and service options.

We respectfully request the Planning Commission's **favorable consideration** of this application.

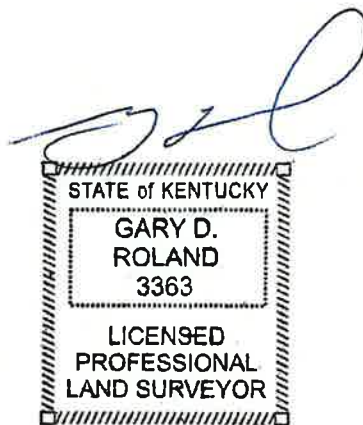
Sincerely,
Andrew Mueller
On behalf of ON THE BLOCK, LLC

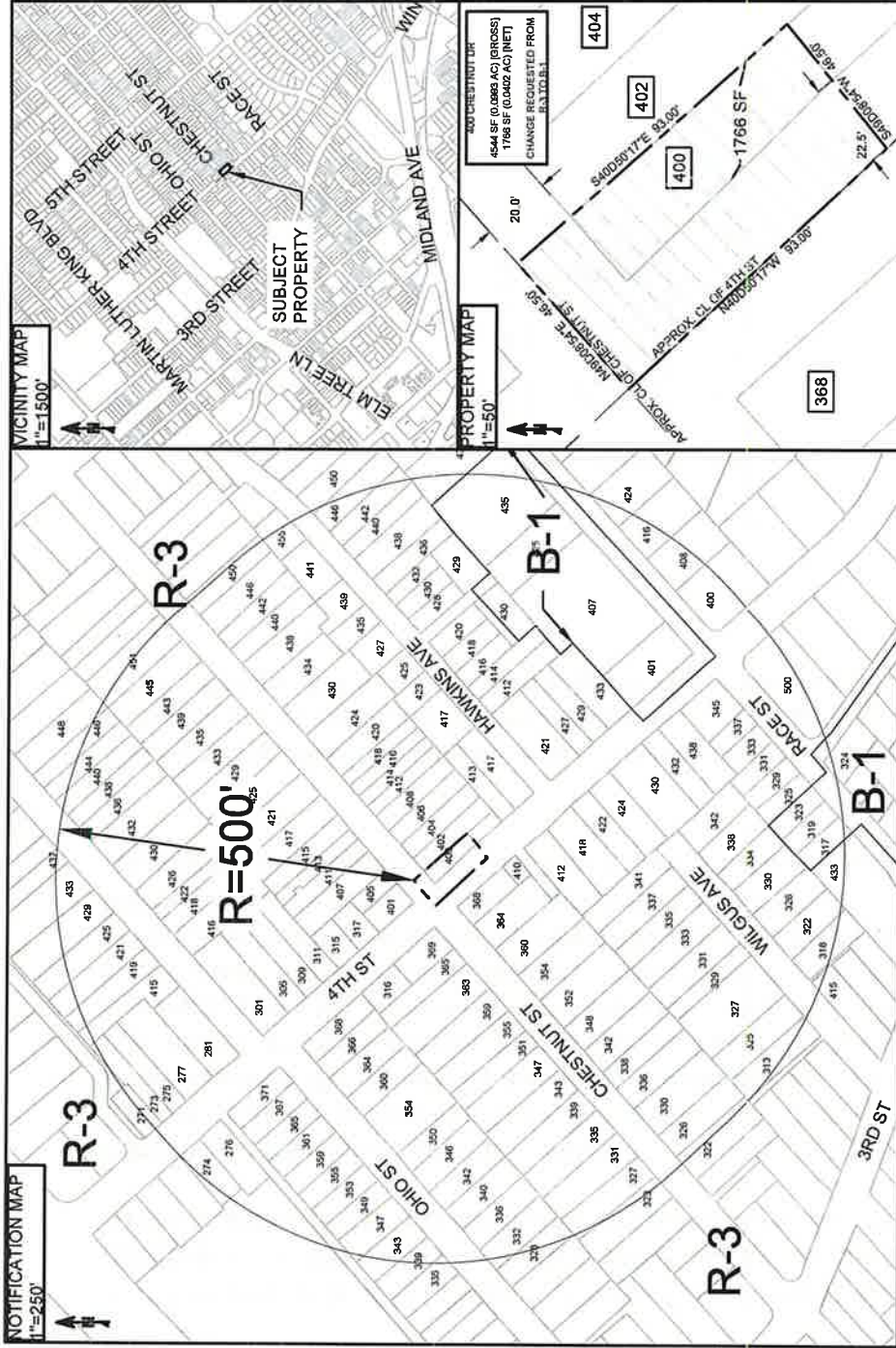
Legal Description 400 Chestnut Street (Zone Change)

A certain tract of land in Lexington, Fayette County, Kentucky, said tract of land lying to the northeast of the intersection of Chestnut Street and East Fourth Street, being commonly known as 400 Chestnut Street, and being more particularly described as follows:

Beginning at the intersection of the centerlines of Chestnut Street and East Fourth Street; thence with the centerline of Chestnut Street N49°08'54"E 46.50' to a point in the line of 402 Chestnut Street extended; thence with the line of 402 Chestnut Street extended S40°50'17"E 20.00' to the right-of-way of Chestnut Street; thence with the line of 402 Chestnut Street S40°50'17"E 73.00' to a point, said point being a corner to 409 East Fourth Street; thence with the line of 409 East Fourth Street S49°08'54"W 24.00' to the right-of-way of East Fourth Street; thence with the line of 409 East Fourth Street extended S49°08'54"W 22.5' to the centerline of East Fourth Street; thence with the centerline of East Fourth Street N40°50'17"W 93.00' to the Point of Beginning and containing a gross acreage of 0.0993 acres, and a net acreage of 0.0402 acres.

The foregoing described property was surveyed, under the direction of Gary Roland, PLS 3363 with CAM Surveying on July 31, 2023. However, the sole purpose of this description is to facilitate a zone change. It is not intended to fully describe the survey. 201 KAR 18:150, Section 13





TITLE: 400 CHESTNUT DRIVE	
PROPERTY ADDRESS: 400 CHESTNUT DRIVE	
APPLICANT NAME/ADDRESS: ANDREW MUELLER / ON THE BLOCK LLC	
1030 MONARCH ST, STE 340, LEXINGTON, KY 40513	
OWNER NAME/ADDRESS: SAME AS ABOVE	
PREPARED BY: MIZU ENGINEERING	
DATE FILED OR AMENDED: 05/23/2025	

ON THE BLOCK, LLC (PLN-MAR-25-00009)

400 CHESTNUT STREET

Rezone the property for commercial use.

Applicant/ Owner

ON THE BLOCK, LLC
1030 MONARCH ST STE 340
LEXINGTON, KY 40513
amueller@logicconstructiongroup.com (Owner)

Application Details

Acreage:

0.0402 net (0.0993 gross) acres

Current Zoning:

Planned Neighborhood Residential (R-3) Zone

Proposed Zoning:

Neighborhood Business (B-1) Zone

Place-type/Development Type

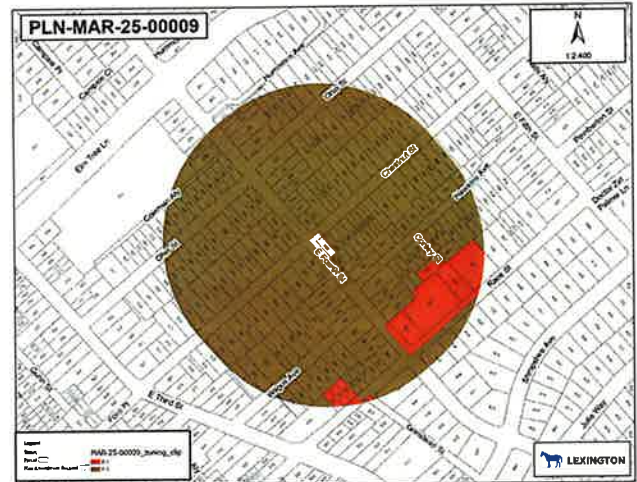
Enhanced Neighborhood

Low Density Non Residential

For more information about the Enhanced Neighborhood place type see Imagine Lexington pages 342-351. For more information on the Low Density Non Residential Type see page 271.

Description:

The applicant is seeking to rezone the property to allow for neighborhood commercial businesses. The applicant is not proposing any expansion to the existing structure at this time. In connection with this request, the applicant is seeking a variance to reduce the required perimeter landscape buffer from 15 feet to 0 feet.



Status

- Public Engagement
- Pre-Application Meeting
- Application Review
- Planning Staff Review
- Technical Review Committee
- Zoning/Subdivision Committee Meetings
- Planning Commission Hearing
- Urban County Council Meeting

Public Engagement

- The applicant has not indicated that any public outreach has occurred at this time.

DISCLAIMER: Plans are subject to change. Visit the Accela Citizen Portal (lexingtonky.gov/plans) or contact Planning for the latest information.


LEXINGTON
Planning



STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT PLN-MAR-25-00009: ON THE BLOCK, LLC

DESCRIPTION OF ZONE CHANGE

Zone Change: From a Planned Neighborhood Residential (R-3) zone
To a Neighborhood Business (B-1) zone

Acreage: 0.16 net (0.28 gross) acres

Location: 400 Chestnut Street



EXISTING ZONING & LAND USE

PROPERTIES	ZONING	EXISTING LAND USE
Subject Property	R-3	Vacant Commercial
To North	R-3	Residential
To East	R-3	Residential
To South	R-3	Residential
To West	R-3	Residential

URBAN SERVICE REPORT

Roads - The subject property is located at the intersection of Chestnut Street and East Fourth Street. Chestnut Street is a two lane local roadway, while this portion of East Fourth Street is a two lane collector roadway.

Curb/Gutter/Sidewalks - Curb, gutter and sidewalks exist along both Chestnut Street and East Fourth Street.

Storm Sewers - The subject property is located within the Town Branch watershed. No known flooding problems exist within the immediate vicinity of the subject site.

Sanitary Sewers - The subject property is located within the Town Branch sewershed. The property is served by the Town Branch Waste Water Treatment Facility, located on Lisle Industrial Avenue, inside New Circle Road, and west of Leestown Road. The petitioner will need to secure a signoff from the Capacity Assurance Program prior to occupancy of the structure.

Refuse - The Urban County Government serves this area with refuse collection on Tuesdays. Supplemental service may be required to serve the needs of the proposed development. This can be accomplished by contracting with private refuse collectors, if desired.

Police - The Police Headquarters, located on E. Main Street, is located approximately 1.4 miles to the west of the site. The property is located within the Central Sector and is served by the Central Sector Roll Call Center located approximately 1.4 miles to the east of the property.

Fire/Ambulance - The closest station is Fire Station #1 and Headquarters, located on E. Third Street, between Elm Tree Lane and N. Martin Luther King Boulevard, located approximately 1/4 mile northwest of the subject property.

Utilities - All utilities, including natural gas, electric, water, phone, cable television, and Internet are available in the area, and are able to be extended to serve the proposed development.

Transit - This area is served by Lextran Route #9 with service directly on the corner of the subject property.

Parks - The subject property is a walkable distance to multiple downtown parks. Charles Young Park is located about 1,000 feet to the southeast, along Shropshire Avenue. Northeastern Park is located approximately 1/3 miles southwest, on Eastern Avenue. Thoroughbred Park is located 1/3 miles to the southwest, also along Eastern Avenue.

SUMMARY OF REQUEST

The applicant is seeking a zone change from the Planned Neighborhood Residential (R-3) zone to the Neighborhood Business (B-1) zone in order to continue commercial uses on the subject property. In conjunction with the zone change, the applicant is seeking a variance to reduce the required property perimeter landscaping from 15' to 0'.

PLACE-TYPE

ENHANCED
NEIGHBORHOOD

The Enhanced Neighborhood Place-Type is an existing residential area to be enhanced with additional amenities, housing types, and neighborhood-serving retail, services, and employment options. Development should be context-sensitive to surrounding areas and should add to the sense of place. Incorporating multimodal connections is crucial to neighborhood success and viability.

DEVELOPMENT TYPE

LOW DENSITY NON-RESIDENTIAL /
MIXED-USE

Primary Land Use, Building Form, & Design

Primarily neighborhood-serving commercial uses, services, places of employment, and/ or a mix of uses within low to mid-rise structures appropriately scaled to the surrounding neighborhood. Mixed-use structures can include a mix of residential, commercial, services, and/or employment uses, and an activated and pedestrian-scale ground level should be provided. Developments with a residential component are generally non-residential on the ground floor with units above, providing opportunities for live/work arrangements.

Transit Infrastructure & Connectivity

Bicycle and pedestrian connections to adjoining neighborhoods, and buildings oriented to the street are required to ensure the non-residential enhances nearby neighborhoods by creating a truly walkable environment.

Parking

Parking should be minimized and, where necessary, located internally.

PROPOSED ZONING

B-1

The intent of this zone is to accommodate neighborhood shopping facilities to serve the needs of the surrounding residential area. This zone should be located in areas of the community where services and facilities are/will be adequate to serve the anticipated population. This zone should be oriented to support and enhance a residential neighborhood. This zone should be established in accordance with the Goals, Objectives, Policies, and Development Criteria of the Comprehensive Plan.

PROPOSED USE



The petitioner is proposing the Neighborhood Business (B-1) zone in order to lease to prospective commercial tenants. The applicant intends to utilize the property for potential retail, restaurants, professional offices, restaurants, or personal service uses. No parking for the use will be provided on-site; although, on-street parking is available in the general vicinity.

APPLICANT & COMMUNITY ENGAGEMENT



The applicant opined that discussions with local residents and business owners have occurred; however, they did not clarify the any information regarding the time, place, and content of those discussions.

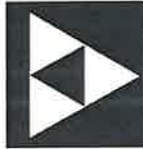
PROPERTY & ZONING HISTORY



The subject property has been zoned Planned Neighborhood Residential (R-3) since before the comprehensive rezoning of the City and County in 1969. Despite the existing residential zoning, the subject property has historically been utilized commercially, with a one-story 1,078 square foot structure occupying the site since 1932. Due to the residential zoning, the property has had numerous Board of Adjustment (BOA) cases to change nonconforming uses. On September 9, 1932, an appeal was approved for the subject property to tear down an existing building on the corner of Fourth and Chestnut Streets in order to erect a new building for the purpose of conducting a retail grocery use. Since then the subject property has seen requests to change the non-conforming use at least five times. The uses on the subject property have included a grocery store, laundromat, another grocery store, retail record sales store, and a beauty salon. The last BOA case was in 2015 requesting an administrative appeal and variance to allow for the change of a non-conforming use (beauty salon) to a non-conforming use (cocktail lounge/bar), which was disapproved. The property has remained underutilized since the disapproval. The applicant is seeking the proposed zone change in order to establish a commercial zone to lease to prospective tenants.

The subject property is also located within the study area for the East End Small Area Plan, which was adopted in 2009. This Small Area Plan emphasized protecting the neighborhood's identity, and proposed restoration of important cultural facilities, signage and beautification, improvement of infrastructure, and maintaining affordable housing. The plan's objectives speak to preserving residential character, while also expanding opportunities for creating and maintaining neighborhood serving businesses. In this instance, the subject property has an extensive history of nonconforming commercial uses, never having a residential character. The proposed rezoning would allow for a neighborhood scale commercial use, at a location that has been operating commercially since its creation in 1932.

COMPREHENSIVE PLAN COMPLIANCE

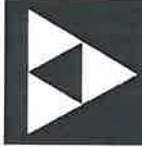


The 2045 Comprehensive Plan, Imagine Lexington, seeks to provide flexible yet focused planning guidance to ensure equitable development of our community's resources and infrastructure that enhances our quality of life, and fosters regional planning and economic development. This will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World.

GOALS, OBJECTIVES, & POLICIES

Although the applicant did not explicitly outline the goals and objectives that their request meets; the information provided within their justification statement does address several themes, goals, and policies. The applicant proposes to create a neighborhood-serving business that respects the surrounding context (Theme A). By not incorporating on-site parking, the proposal prioritizes multi-modal options that reduce greenhouse gas emissions (Theme B). Their proposal will provide jobs and employment opportunities through revitalizing vacant commercial space (Theme C). Their proposal will create a sense of place and community through incorporating thoughtful uses and zoning (Theme D). This proposal is an area of opportunity for infill, redevelopment, and mixed-use development (Theme A, Goal #2.a). The proposal's reuse of an existing structure maintains its scale with the surrounding neighborhood (Theme A, Goal #2.b). The site design prioritizes safe multi-modal connections with the adjacent properties and neighborhoods (Theme A, Goal #3.b). Staff agrees that these Goals and Objectives of the 2045 Comprehensive can be met with the proposed request.

Additionally, several policies listed within the 2045 Comprehensive Plan are being met with this request. The proposal will reuse an existing structure to remain as a commercial development while keeping with the scale of the surrounding neighborhood (Theme A, Design Policy #4). The proposal will not include any on-site parking enhancing the walkability and bikeability of the property (Theme A, Design Policy #7) by prioritizing a multi-modal street design (Theme D, Connectivity Policy #2). This project seeks to add



commercial resources to a walkable neighborhood (Theme A, Density Policy #3). The redevelopment of this site will support neighborhood-level commercial areas (Theme A, Design Policy #12). Staff agrees that these Policies of the 2045 Comprehensive can be met with the proposed development.

PLACE TYPE, DEVELOPMENT TYPE, AND ZONE

In an effort to allow for the greatest contextual development of Lexington's Urban Service Area, applicants are asked to identify a Place-Type based on the location of the subject properties. Within each Place-Type there are recommended Development Types based on the form and function of the proposed development. Based on the Place-Type and Development Type there are also several recommended zones that are most appropriate based on the Goals, Objectives, and Policies of the 2045 Comprehensive Plan. While these zones are the ideal zoning categories to develop within a specified area, other zones may be considered, provided there is an appropriate justification addressing the unique situation and provided the development is able to adequately meet the associated Development Criteria.

The Enhanced Neighborhood Place-Type consists of an existing residential area with opportunities for neighborhood-serving retail, amenities, and services to enhance the neighborhood. The subject property is located within an existing low-density residential area with significant multimodal connectivity. The staff agrees that the subject property is located within the Enhanced Neighborhood Place-Type and that the proposed one-story commercial use is in line with the Low Density Non-Residential/Mixed Use Development Type. The Neighborhood Business (B-1) zone is recommended within the Enhanced Neighborhood Place Type and the Low Density Non-Residential/Mixed-Use Development Type.

DEVELOPMENT CRITERIA

The development criteria for a zone change are the distillation of the adopted Goals and Objectives, as well as the policies put forth in the 2045 Comprehensive Plan. The development criteria for development represent the needs and desires of the Lexington-Fayette Urban County community in hopes of developing a better built environment. The applicable criteria are defined based on the proposed Place-Type and Development Type.

1. Land Use

Staff finds that this request meets the Development Criteria for Land Use. The applicant's proposal re-establishes a commercial use in a neighborhood context (C-LI7-1) and provides pedestrian-oriented commercial opportunities within said neighborhood (A-DN3-1).

2. Transportation and Pedestrian

Staff finds that this request meets the Development Criteria for Transportation and Pedestrian Connectivity. The proposal will provide safe multi-modal facilities (A-DS5-1) that incorporates clear and dedicated connections to community anchors (A-DS10-1) with accessible pedestrian linkages directly to transit (A-DS1-2).

3. Environmental Sustainability and Resiliency

The proposed rezoning meets the criteria for Environmental Sustainability and Resiliency as the proposal will use native, low-impact landscaping (B-PR2-1) while not creating any impervious surface (B-SU4-1).

4. Site Design

Staff finds that this request meets the requirements for Site Design as the proposal will provide a pedestrian-oriented and activated streetscape (A-DS5-4), enhance a well-connected public realm through activating the street corner (C-LI8-1), and no parking is provided on-site encouraging foot, bicycle, and transit traffic (C-PS10-2).

5. Building Form

The request meets the criteria for Building Form, as the applicant's proposal will minimize contrasts in design and scale to the surrounding context (A-DN2-2), while creating a pedestrian-friendly atmosphere through the building fronting on the intersection (A-DS5-3). The request continues the reuse an existing structure (E-GR4-1) that will activate the street corner (D-PL2-1).

STAFF RECOMMENDS: APPROVAL, FOR THE FOLLOWING REASONS:



1. The requested Neighborhood Business (B-1) zone is in agreement with the 2045 Comprehensive Plan's Goals and Objectives, for the following reasons:
 - a. The proposed project is in a location that promotes infill, redevelopment, adaptive reuse, and mixed-use developments (Theme A, Goal #2.a).
 - b. The proposed rezoning will allow for a commercial development with the potential for a neighborhood-serving business (Theme A, Goal 3.d).
 - c. The proposed project will remain in scale with the surrounding context through the reuse of an existing, non-conforming structure (Theme A, Goal #2.b) while prioritizing multi-modal facilities promoting safer connectivity (Theme A, Goal #3.b).
2. The requested Neighborhood Business (B-1) zone is in agreement with the 2045 Comprehensive Plan's Policies, for the following reasons:
 - a. The proposed rezoning will allow the applicant to reuse an existing structure for a commercial use in scale with the surrounding context (Theme A, Design Policy #4).
 - b. The proposal will not have any on-site parking, prioritizing multi-modal connectivity (Theme A, Design Policy #7).
 - c. The proposal intends to prioritize multi-modal connections for the potential commercial user (Theme A, Design Policy #10).
 - d. The proposal seeks to add neighborhood-level commercial opportunities through re-zoning the property (Theme A, Design Policy #12).
3. The justification and corollary development plan are in agreement with the policies and development criteria of the 2045 Comprehensive Plan.
 - a. The proposed rezoning meets the recommendations for Land Use, as the proposed development will re-establish a commercial use within a neighborhood context (A-DS10-1), which will provide a pedestrian-oriented commercial opportunity (A-DN3-1).
 - b. The proposed rezoning addresses the Transportation and Pedestrian Connectivity Development Criteria, as the proposal will provide safe multi-modal facilities (A-DS5-1) that incorporates dedicated connections to neighborhood anchors (C-PS10-1) promoting pedestrian, bike, and transit users to the property (A-DS1-2).
 - c. The request meets the criteria for Environmental Sustainability and Resiliency, as the applicant proposes to use native, low-impact landscaping (B-PR2-1), while not adding any impervious surface to the site (B-SU4-1).
 - d. The request meets the requirements for Site Design, as the proposed development will activate the streetscape by promoting a pedestrian-oriented site (A-DS5-4) with no on-site parking (C-PS10-2) that will enhance the public realm by activating the street corner (C-LI8-1).
 - e. The request meets the criteria for Building Form, as the proposal maintains appropriate scale to the surrounding neighborhood (A-DS4-2) through the reuse of a viable existing structure (E-GR4-1) while creating a pedestrian-oriented atmosphere (A-DS5-3) through the activation of the street corner (D-PL2-1).
4. This recommendation is made subject to approval and certification of PLN-MJDP-25-00028: ON THE BLOCK, LLC PROPERTY prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

JAM/DAC/TWC

5/29/2025 Planning Services/Staff Reports/MAR/2024/PLN-MAR-25-00009: ON THE BLOCK, LLC

STAFF REPORT ON VARIANCE REQUEST



As part of their application, the petitioner is also seeking two variances to reduce the required perimeter buffer for a business zone adjacent to a residential zone from fifteen (15) feet to zero (0) feet.

Before any variance is granted, the Planning Commission must find the following:

- a. The granting of the variance will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations. In making these findings, the Planning Commission shall consider whether:
 1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or in the same zone.
 2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; and
 3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.
- b. The Planning Commission shall deny any request for a variance arising from circumstances that are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulation from which relief is sought.

ZONING ORDINANCE

Article 6-4(c) states that the Planning Commission may hear and act upon requested variances associated with a zone change. In such cases, they may assume all of the powers and responsibilities of the Board of Adjustment, as defined in Article 7-6(b) of the Zoning Ordinance.

Article 18-2(d) states that no use shall of an existing building, structure, or vehicular use area shall be commenced subsequent to a change in zoning unless property perimeter landscaping as required herein has been provided.

Article 18-3(a)(1)2. states that any office or business zone, except P-2, that adjoins any residential zone shall have a minimum buffer area with an average width of 15 feet adjacent to all common boundaries behind the building line except for street frontage. To achieve opacity requirements, One tree/40 feet of linear boundary, OFT, from Group A or B only, plus, 1) a double staggered row of six feet high hedge or 2) a six feet high fence, wall or earth mound.

CASE REVIEW

The applicant is requesting landscaping variances to reduce the zone-to-zone screening within Article 18 of the Zoning Ordinance. When a site is to undergo a change in zoning, no use shall commence until the required property perimeter landscaping requirements are met. Article 18 states that any office or business zone adjacent to a residential zone must provide at least fifteen (15) feet of landscaped screening.

The applicant put forth in their justification statement that the majority of the lot is occupied the existing commercial structure leaving insufficient space to meet the landscaping requirement of the Zoning Ordinance. They stated that the granting of the requested variance will not alter the essential character of the area or adversely impact the public health, safety, or welfare. Stating that the area is defined by a compact, walkable, urban development pattern with properties fronting on the street, narrow lots, and limited front and side yards.

The applicant purported that the compact configuration of the lot is a special circumstance necessitating the variance. That strict application of the requirements would impose improper conditions that cannot be physically met without significant modification and demolition of the existing structure. They indicate that the site constraints are inherent to the development of the building predating current landscaping regulations. They seek to keep the building as-is, opining that the granting of the variance would not constitute an unreasonable circumvention of the Zoning Ordinance, but a practical accommodation to the constraints present on-site.

In staff's review of the application, the applicant missed one central aspect of their justification, which is the intensity of the proposed use compared to the uses surrounding it. Landscape buffer requirements between incompatible land uses is a requirement within the Zoning Ordinance to promote the public health and safety. For a variance to these requirements to be considered, an analysis of the proposed use and the general vicinity is necessary. Staff engaged in this analysis and found that the intensity of the potential uses are similar in-scale to the surrounding residential and commercial uses, and the land uses have operated harmoniously. Staff found that these variances should not adversely affect the public health, safety, and welfare nor alter the character of the general vicinity.

STAFF RECOMMENDS: APPROVAL, FOR THE FOLLOWING REASONS:



1. Approval of the requested variances should not adversely affect the public health, safety, or welfare, nor should it create a hazard or nuisance to the public, as the site has always operated commercially.
2. Strict application of the Zoning Ordinance would adversely impact the applicant's ability to utilize the parcel, as the existing structure is built to commercial building code, not residential building code.
3. The circumstances of this variance are not a result of actions taken by the applicant subsequent to the adoption of the Zoning Ordinance.

This recommendation of Approval is made subject to the following conditions:

- a. Provided the Planning Commission and Urban County Council approve the requested zone change to the B-1 zone, otherwise the requested variances shall be null and void.
- b. The development shall be constructed in accordance with the approved development plan and supplemental documents, or as amended by the Planning Commission.
- c. All necessary permits shall be obtained from the Divisions of Planning, Traffic Engineering, Engineering, and Building Inspection prior to construction and occupancy.
- d. Action of the Planning Commission shall be noted on the Development Plan and future plats for the subject property.

1. RD PROPERTY GROUP, LLC ZONING MAP AMENDMENT AND PATCHEN WILKES, UNIT 2 DEVELOPMENT PLAN

Note: The Planning Commission postponed this item at the June 26, 2025 meeting.

- a. **PLN-MAR-25-00008: RD PROPERTY GROUP, LLC** – a petition for a zone map amendment from a Planned Neighborhood Residential (R-3) zone and a Neighborhood Business (B-1) zone to a Commercial Center (B-6P) zone and to remove existing conditional zoning restrictions within the property's Neighborhood Business (B-1) zone, for 32.30 net (34.28 gross) acres for property located at 1811 Winchester Road (a portion of). The applicant is also requesting a variance to increase the maximum VUA between a building and a street from 60' to 110'.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2045 Comprehensive Plan, Imagine Lexington, seeks to provide flexible yet focused planning guidance to ensure equitable development of our community's resources and infrastructure that enhances our quality of life, and fosters regional planning and economic development. This will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World.

The applicant is proposing the rezoning of a portion of the subject property to construct a mixed-use development that consists of a grocery store, a gas station, commercial outlots, as well as a multi-family residential component. The grocery store is proposed to be a total of 127,000 square feet, and includes an attached pharmacy and liquor store, and a total of 492 parking spaces. The store is oriented towards an internal access drive that runs parallel to Winchester Road. A gas station is proposed along Charleston Drive, west of the proposed grocery. The proposal includes five outlots along Winchester Road, which will be accessed through internal access driveways.

The multi-family residential component consists of two multi-family residential buildings, with a total of 154 units. These buildings are proposed to be accessed from Thunderstick Drive, and feature 154 parking spaces.

The Zoning Committee Recommended: Postponement.

The Staff Recommends: Approval of the zone change to B-6P for the following reasons:

1. The proposed Commercial Center (B-6P) zone is in agreement with the Imagine Lexington 2045 Comprehensive Plan's Goals and Objectives, for the following reasons:
 - a. The request allows for more flexibility to create higher density housing (Theme A, Goal #1.b)
 - b. The proposal utilizes an underdeveloped property along a corridor for a mixed-use development (Theme A, Goal #1.d and #1.e)
 - c. The request will provide for neighborhood serving commercial uses (Theme A, Goal #3.d).
2. The proposal is in agreement with the Policies of the 2045 Comprehensive Plan for the following reasons:
 - a. The request will improve connectivity by extending existing stub streets, thereby increasing connectivity (Theme A, Design Policy #2 and #13)
 - b. The proposed apartment uses will increase the variety of housing choice available in the area (Theme A, Design Policy #8).
 - c. The request provides commercial uses that will provide for nearby residents' daily needs (Theme A, Design Policy #12).
3. The justification and corollary development plan are in agreement with the Development Criteria of the 2045 Comprehensive Plan.
 - a. The proposed rezoning meets the criteria for Land Use, as the request provides neighborhood level commercial areas (A-DS12-1), incorporates residential uses into their commercial center (A-DN3-2), and provides a greater access to healthy and affordable food (C-PS15-2).
 - b. The proposed rezoning meets several criteria for Transportation, Connectivity, and Walkability, as the request makes vehicular connections to the existing commercial areas and allows for future

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connectivity with both Patchen Wilkes Farm and the existing Eastland Parkway neighborhood (A-DS4-1; A-DS13-1), and provides a starting point for future pedestrian facilities along the Winchester Road frontage (D-CO-2).

- c. The request meets the criteria for Environmental Sustainability and Resiliency, as the request locates the structure outside of the floodplain setback (B-PR-2-1), provides for street trees (D-SP10-1), and will avoid overlighting B-PR10-1).
- d. The proposal meets several criteria for Site Design, as the development introduces a pavilion and the potential for programmatic elements within their open space (D-PL4-1), provides for connections to existing stub streets (C-Li8-1), and meets the parking requirements of the B-6P zone (C-PS1-2).
- e. The plan meets several of the criteria for Building Form, as the request intensifies a parcel that is located along a Corridor (A-DS4-2), and transitions its uses from the most auto-centric outlots along the corridor to grocery and multi-family residential further into the site (A-EQ5-1).

4. This recommendation is made subject to approval and certification of PLN-MJDP-25-00027: PATCHEN WILKES UNIT 2) prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

The Staff Recommends: Approval of the removal of the conditional zoning for the following reasons:

1. The nearby increases in allowable land use intensity, expansion of the Urban Services Boundary, adoption of the Urban Growth Master Plan, and the construction of large regional scale institutions are changes that have occurred that have shifted the intensity of anticipated development along this portion of Winchester Road, and make the current conditions inappropriate.
- b. **VARIANCE** – As part of their application, the petitioner is also seeking a dimensional variance to increase the allowable width of Vehicular Use Area in front of the building from 60 feet to 110 feet.

The Zoning Committee Recommended: Postponement.

The Staff Recommends: Disapproval of the requested variance for the following reasons:

1. The applicant has not provided a sufficient justification to meet the requirements of Article 7 of the Zoning Ordinance or KRS 100.243. There do not appear to be special circumstances that are unique to the subject property that do not generally apply to land in the general vicinity, or in the same zone that justify the need for the variance.
 2. The applicant has not provided sufficient information to determine that strict enforcement of the Zoning Ordinance will result in an unnecessary hardship or deprive the applicant of the reasonable use of their land
 3. Approval of the requested variance would negatively impact the pedestrian experience in the area, and is not consistent with the character of development in the area.
- c. **PLN-MJDP-25-00027: PATCHEN WILKES, UNIT 2** (8/3/25)* – located at 1811 WINCHESTER ROAD, LEXINGTON, KY
Council District: 6
Project Contact: EA Partners

Note: The purpose of this plan is to depict a 127,000 sq. ft. grocery store with parking, a gas station, and 154 multi-family dwelling units in support of the requested zone change from a Neighborhood Business (B-1) zone and Planned Neighborhood Residential (R-3) zone to a Highway Business (B-6P) zone and removing the conditional zoning from the remaining B-1 zoned area.

The Subdivision Committee Recommends: Postponement. There are questions regarding the need for a floodplain study to identify the extent of the floodplain.

1. Provided the Urban County Council approves the zone change to B-6P and removes conditional zoning; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of street cross-sections and access.
4. Urban Forester's approval of tree preservation plan.

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5. Greenspace planner's approval of the treatment of greenways and greenspace.
6. Department of Environmental Quality's approval if environmentally sensitive areas.
7. Denote: No building permits shall be issued unless and until a final development plan is approved by the Planning Commission.
8. Add north arrow to vicinity map.
9. Add section line for cross-section E-E.
10. Provide Tree Inventory Map per Article 26 of the Zoning Ordinance.
11. Depict VUA (Vehicle Use Area) perimeter buffering per Article 18(a)(2) of the Zoning Ordinance.
12. Depict proposed development of Outlots #2-6 per Article 21 of the Zoning Ordinance.
13. Discuss lack of pedestrian connection between multi-family residential and grocery store.
14. Discuss orienting proposed grocery store to Charleston Drive instead of Winchester Road.
15. Discuss Placeholder criteria.

Staff Presentation - Mr. Crum oriented the Commission to the zone change request. He explained that the applicant wished to build a Kroger Marketplace as the center of the development. He also said that they desired a zone change, as well as a removal of conditional zoning requirements attached to a smaller B-1 zone portion of the property. He said that the Staff agrees with the Regional Center Place Type and Medium Density Non-Residential/Mixed Use Development Type. He pointed out the features of the surrounding areas and the portion of the property that would remain in the B-1 zone. He told the Commission that there was limited transit service, and the Kentucky Transportation Cabinet was studying improvements to Winchester Road. He briefly described the initial concerns of the Staff, and the revised plans. Mr. Crum added that the variance request previously mentioned was no longer required. Lastly, Mr. Crum addressed the aspects of the Comprehensive Plan that were being met and those that were not. He stated that Staff recommended approval of the zone change request from a B-1 to a B-6P zone.

Commission Questions - Mr. Michler asked if there were any written comments sent, and Mr. Crum replied that there was one citizen comment letter sent in regarding the zone change piece of the application.

Mr. Michler stated that he was concerned that dividing the property into zones in this way could cause a circumvention of the Floor Area Ratio (FAR) requirements. Mr. Crum confirmed that the applicant stated that they had chosen to keep the B-1 zone on the front outlots so they could avoid the FAR requirements as well as parking requirements of the B-6P zone. He added that there was nothing in the Ordinance that prohibited them from doing this, but there were disadvantages to their choice as well, including drive-throughs being a conditional use in the B-1 zone.

Mr. Michler also stated that he was concerned that the residential buildings had no users and could just be depicted to comply with the FAR. Mr. Crum stated that it was the understanding of Staff that the applicant did intend to build the apartments. Mr. Michler said that another Kroger that had been built in a B-6P zone had not built any of the buildings other than the grocery store and was concerned that this property could end up the same way.

Mr. Nicol asked if the project could be completed with the current B-1 zoning, and why the request to B-6P zone was a better option. Mr. Crum explained that the B-1 zone does not allow for such a large building such as the proposed grocery store. He also stated the conditional zoning restrictions currently required vertical mixed use, and that has not proven to be successful. He explained that the B-6P zone allows for taller buildings and gives residential flexibility. Mr. Nicol appreciated that the B-6P allowed for the multi-family residential units.

Ms. M. Davis asked if Kroger had considered changing the orientation of the building to Charleston Drive rather than Winchester Road. She added that she felt that the back of the Kroger building should not face the multi-family buildings. Mr. Crum said that it had been discussed from the beginning of the plan, but the applicant had some spacing concerns with orientation towards Charleston Drive. He added that the applicant could speak to the question.

Mr. Owens requested more information about the outlots on the front of the property, specifically if the Planning Commission would see the plans. Mr. Crum reminded them that the Planning Commission would

not see the development plans unless there was a waiver associated with the plan or a specific health, safety, or welfare concern.

Mr. Owens asked about drive-throughs on the outlots. Mr. Crum replied that, if the conditional zoning was lifted during this zone change process, a drive through would require a conditional use permit.

Staff Presentation - Mr. Chaney oriented the Planning Commission to the preliminary development plan. He told the Commission that staff had requested that the applicant depict something on each outlot so that they could justify their request to remove the conditional zoning. Mr. Chaney listed the following revised conditions, and told the Commission that the Staff was recommending approval.

1. Provided the Urban County Council approves the zone change to B-6P and removes conditional zoning; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of street cross-sections and access.
4. Urban Forester's approval of tree preservation plan.
5. Greenspace planner's approval of the treatment of greenways and greenspace.
6. Department of Environmental Quality's approval if environmentally sensitive areas.
7. Discuss Placebuilder criteria.

Mr. Crum presented the request to remove the conditional zoning from the B-1 zone area of the property. He said that staff recommended approval due to significant changes in the area. The existing conditional zoning restrictions are as follows:

1. There shall be a minimum of 125 residential units in the B-1 zone.
2. Signage shall be provided only as per the B-6P zone.
3. Sixty percent (60%) of all commercial square footage shall be in multi-story buildings with a mixture of residential units.
4. Existing trees withing 30 feet of the Winchester Road right-of-way are to be preserved, except those trees that are diseased or dying, and those needed to be removed for right-of-way improvements.
5. The sale of gasoline shall be restricted only to one business, only as an accessory to a convenience store, with no more than eight gasoline pumps.
6. No more than four drive-through facilities shall be provided on the subject property.

Mr. Crum reiterated that the Staff supported removal of all of the existing restrictions.

Commission Questions - Mr. Michler opined that the conditional zoning ensured that the development would be neighborhood oriented, but removing it would essentially remove the neighborhood center. Mr. Crum stated that the development would need to interface with the neighborhood, but also serve the needs of the greater area.

Mr. Nicol agreed that the grocery store would serve more than the Patchen Wilkes neighborhoods because of the lack of other grocery stores in the area. He felt that the development would serve the greater Winchester Road corridor.

Applicant Representation - Attorney Branden Gross was present to represent the applicant, and noted their desire to withdraw the variance since it was no longer necessary. He told the Planning Commission about the multiple neighborhood meetings that he had attended, and they had encouraged some changes made to the development plan. He reiterated that Kroger was the only known user at this time, and the other buildings were just conceptual. He briefly described the reasoning behind the request for the B-6P zone. He also informed the Commission that they had no users for the apartments, but as soon as they did, they would detail compliance with the multi-family design standards. Mr. Gross stated that they hesitated to include the buildings on the outlots in the B-1 zone area, because they were unsure of the users at this time. He reminded the Planning Commission that drive-throughs in the B-1 zone were a conditional use and there were no fueling stations allowed at all. Regarding the orientation of the Kroger building, he explained that the neighbors did not want the building facing them because of potential light and noise

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pollution. He explained other reasons why they wanted to keep the orientation of the grocery store to Winchester Road rather than Charleston Drive.

Commission Questions - Mr. Michler stated his concern about the number of parking spaces in the proposed development. He opined that the grocery store would perhaps only serve that many people a few times per year. Mr. Gross replied that while they had reduced the number of parking spots by 23%, Kroger knew their business and how many spots they needed.

Mr. Michler said that it appeared that the applicant was trying to circumvent the FAR requirements by requesting the zone change/removal of conditional zoning as they did. Mr. Gross agreed that it was intentional because the plan would not work if the entire property was zoned B-6P.

Mr. Nicol asked the applicant if they had met the objective standards of parking requirements to receive an approval recommendation from the Staff. Mr. Gross replied that they had, and in fact were under-parked compared to what was allowable. Mr. Nicol felt that this was important, because the property owners/tenants and the market should be able to determine what was needed for their business.

Citizen Comments - Jennifer Bringardner, resident of the Patchen Wilkes Townhomes, said that the applicant had been very helpful and responsive with her concerns. Her concerns were the safety of children crossing the street from the high school, and the potential light and noise pollution from the grocery store.

Applicant Rebuttal - Mr. Gross stated that the intersection of Charleston Drive and Winchester Road would be a fully lighted intersection with crosswalks for safety. He told the Planning Commission that he had committed to the neighbors that he would keep them apprised of changes and final development filings. He also reminded them that there were new lighting standards that would protect the neighbors from too much lighting.

Commission Comments - Mr. Michler stated that he could only support the re-zoning if it extended all the way to Winchester Road. He did not approve of the removal of the conditional zoning, because he felt that the development should be neighborhood oriented.

Mr. Nicol said the land was underutilized, and this development was much needed.

Action - Mr. Nicol made a motion, seconded by Mr. Penn, and carried 9-0 (Forester and Barksdale absent), to approve PLN-MAR-25-00008: RD PROPERTY GROUP, LLC to change the noted portion of the property to B-6P, for the reasons listed by staff.
Mr. Nicol made a motion, seconded by Mr. J. Davis, to approve the removal of the conditional zoning for PLN-MAR-25-00008: RD PROPERTY GROUP, LLC for the reasons presented by staff.

Commission Discussion - Mr. Penn said that he was concerned that the applicant was trying to make a zone fit a development plan without considering the intent of that zone.

Mr. Michler opined that it would be a mistake to remove the conditional zoning.

The motion failed by a vote of 3-6. (M Davis, J. Davis, Michler, Z. Davis, Worth, and Penn opposed, Forester and Barksdale absent)

Note: Mr. J. Davis left the meeting at approximately 4:16 p.m.

Action - Mr. Michler made a motion to leave the conditional zoning requirements in place for the B-1 portion of the property.

Commission Comments - Mr. Nicol suggested that some of the conditional zoning could be removed.

At this time, there was considerable discussion among the Planning Commission about removing portions of the conditional zoning with several suggestions and comments by members, staff, and the applicant.

Action - Mr. Michler amended his motion to leave conditional zoning restrictions #2, #5, and #6 in place, but removing #1, #3, and #4 from the B-1 zone portion of the property. The motion was seconded by Ms. Worth, and carried 6-2 (M. Davis, Penn opposed, Forester, Barksdale, J. Davis absent).

Mr. Nicol made a motion, seconded by Ms. Worth, and carried 8-0 (Forester, Barksdale, J. Davis absent), to approve PLN-MJDP-25-00027: PATCHEN WILKES, UNIT 2, with the revised conditions, but removing #7.

Note: Chair Davis called for a ten-minute break at 4:25 p.m., and reconvened at 4:36 p.m. Mr. Nicol left the meeting at this time.